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FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

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 Counsel for Defendant,
 POST CONFIRMATION TRUST

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen,

) CIVIL NO. CV03-00385 SOM-LEK

) (Copyright)

Plaintiff,

) **Defendant Post-Confirmation Trust's**

) **Ninth Circuit Court Rule 3-2**

) **Representation Statement**

vs.

HAWAIIAN EXPRESS SERVICE,
 INC., a California corporation, et al.,

)

)

Defendants.

)

)

**Defendant Post-Confirmation Trust's
Ninth Circuit Court Rule 3-2 Representation Statement**

Kirkland & Ellis LLP and Kobayashi Sugita & Goda represent the Post-Confirmation Trust (the "PCT")¹ defendant, appellee and cross-appellant in this matter. In addition to its representation of the PCT, Kobayashi Sugita & Goda also represents C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisitions, LLC, Richard Cohen, and ES3, LLC (collectively, "C&S"), defendants and appellees in a related Ninth Circuit appeal (06-16199). Kirkland & Ellis LLP does not represent any other party in this matter.

Below are two lists. One identifies all parties to the action below, including terminated parties. The second identifies all parties the PCT expects to participate on appeal, together with the names, addresses, telephone numbers and email addresses of their respective counsel.

I. List of All Parties To The Action Below, Including Terminated Parties.

- Plaintiff:
- WAYNE BERRY, a Hawaii citizen;

¹ The PCT is a trust created pursuant to the *Debtors' and Official Committee of Unsecured Creditors' Third Amended and Revised Joint Plan of Reorganization of Fleming Companies, Inc. and its Filing Subsidiaries under Chapter 11 of the United States Bankruptcy Code* (the "Plan"), which was approved by the United States Bankruptcy Court for the District of Delaware (Case No. 03-10945 MFW) on July 26, 2004. The PCT is responsible for and has the power to administer certain post-confirmation responsibilities under the Plan, including litigation involving claims by and against Fleming Companies, Inc.

- Defendants:
 - HAWAIIAN EXPRESS SERVICE, INC., a California corporation;
 - H.E.S. TRANSPORTATION SERVICES, INC., a California corporation;
 - CALIFORNIA PACIFIC CONSOLIDATORS, INC., a California corporation;
 - JEFFREY P. GRAHAM and PETER SCHAUL, California citizens;
 - MARK DILLON, TERESA NOA, and BRIAN CHRISTENSEN, Hawaii citizens;
 - FLEMING COMPANIES, INC., an Oklahoma corporation;
 - C & S LOGISTICS OF HAWAII, LLC, a Delaware LLC, C & S WHOLESALE GROCERS, INC., a Vermont corporation; C & S ACQUISITIONS, LLC; RICHARD COHEN, a New Hampshire citizen, ES3, LLC, a Delaware Limited Liability Company;
 - FOODLAND SUPER MARKET, LIMITED, a Hawaii corporation;
 - HAWAII TRANSFER COMPANY, LIMITED, a Hawaii Corporation,;
 - MELVIN PONCE, SONIA PURDY, JUSTIN FUKUMOTO, AFREDDA WAIOLAMA, JACQUELINE RIO, Hawaii citizens;
 - JESSIE GONZALES, LUIZ RODRIGUES, AL PEREZ and PATRICK HIRAYAMA, California citizens;
 - GUIDANCE SOFTWARE, LLC, a California LLC, and MICHAEL GURZI, a California citizen; and
 - ALIX PARTNERS, LLC, a Delaware LLC

II. List of Parties and Counsel Expected to Participate on Appeal

- Wayne Berry:

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- C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisitions, LLC, Richard Cohen, and ES3, LLC

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Fleming Companies, Inc.